

Final

Rhode Island Supreme Court Ethics Advisory Panel
Opinion No. 2002-04 Request No. 850
Issued June 6, 2002

Facts:

A client who has been represented by the inquiring attorney in a personal injury case has retained another lawyer. The inquiring attorney received a letter from successor counsel requesting that the client's file be forwarded to successor counsel. The letter also states that the client does not wish to be contacted by the inquiring attorney regarding the matter. Enclosed with the letter was a "file transfer authorization," signed by the client, authorizing the inquiring attorney to release the file to successor counsel, discharging the inquiring attorney, and stating that successor counsel is "my attorney for all purposes." The inquiring attorney states that he/she has represented the client on several matters since 1997. He/she would like to speak with the client concerning the discharge and file transfer.

Issue Presented

The inquiring attorney asks whether Rule 4.2 of the Rules of Professional Conduct prohibits his/her communicating with the client.

Opinion

Rule 4.2 prohibits the inquiring attorney from communicating with the client regarding the inquiring attorney's discharge by the client, or the file transfer, without successor counsel's consent.

Reasoning

A client has a right to discharge a lawyer at any time, with or without cause. See Commentary to Rule 1.17. An attorney who has been discharged by a client is required to withdraw (with permission of the court, if required) and to take only those steps necessary to avoid prejudice to the client's rights. See Rule 1.17(a)(3).

The client in the instant inquiry has severed his/her relationship with the inquiring attorney. The authorization signed by the client expressly states that the client has retained successor counsel, and considers successor counsel "my attorney for all purposes." Rule 4.2 applies. It states:

Rule 4.2. Communication with Person Represented by Counsel. – In representing a client, a lawyer shall not communicate about the subject of the representation with a

party the lawyer knows to be represented by another lawyer in the matter, unless the lawyer has the consent of the other lawyer or is authorized by law to do so.

The Panel concludes that Rule 4.2 prohibits the inquiring attorney from communicating with the client regarding the file transfer or the inquiring attorney's discharge without first obtaining the consent of successor counsel. See Illinois State Bar Assoc.Op. 96-09 (1997).